IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE MR. JUSTICE A. GOPAL REDDY

WRIT PETITION NO. 19060 OF 1994

DATED: 14-02-2006

BETWEEN:

Gundala Punnamma.

……Petitioner

AND

1. Puspagiri Mutt, rep. By its Manager,

Cuddapah and two others.

……Respondents

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THE HON'BLE MR. JUSTICE A. GOPAL REDDY

WRIT PTITION NO. 19060 OF 1994

ORDER:

The petitioner's husband Janakiramaiah was a tenant of Acs.1-47 cents of wetland in S.No. 159/2 situated at Paturu Village, Kovur Mandal, Nellore District belonging to the 1st respondent – Mutt. On the death of her husband in the year 1982, she has been in continuous possession and cultivating the land by paying maktha regularly to the Mutt. While so, on the proposal made by the Gram Panchayat of the Village to construct latrines in an extent of Ac.0-25 cents of land out of the tenanted property, her son got issued a notice to the respondents not to dispossess them without following the due procedure. The petitioner has filed the present writ petition stating that she being the statutory tenant who inherited tenancy rights on the death of her husband is entitled to continue in possession and cannot be dispossessed without following due process of law.

The 1st respondent – Mutt filed its counter admitting the lease of the property in question in favour of the petitioner's husband up to Fasli year 1396 on an annual maktha of one putti two thooms. That they are not aware of the death of the husband

of the petitioner. It is stated that the son of the petitioner made an application dated 29-07-1987 stating that his father was not doing well. The petitioner is defaulter in payment of maktha for the fasli years 1376, 1378, 1387, 1388, 1396, 1399, 1400, 1401 and 1403. The Commissioner by letter dated 21-04-1986 accorded sanction to the Mandal Revenue Officer to acquire 25 cents of land in S.No.159/2 of Paturu Village belonging to the Mutt for construction of public latrines subject to payment of prevailing market value. The 3rd respondent remitted an amount of Rs.9,282/- to the Mutt having obtained from the Executive Officer of Paturu Gram Panchayat. That the petitioner is in unauthorised possession of the land in question and she cannot question transfer of 25 cents of land in favour of the Gram Panchayat for providing public amenities.

None represented the respondent - Gram Panchayat in spite of service of notice. Heard the learned counsel for the petitioner.

No counter affidavit has been filed by respondent No. 3. It is not known as to whether the Gram Panchayat has taken possession of the land in question. It is not disputed that the petitioner's husband was a tenant and is in possession of Ac.1.47 cents of land. On the death of the tenant, the petitioner has been in possession of the land. It is well settled that the Andhra Pradesh (Andhra Area) Tenancy Act has no application to the lands held by an endowment and the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act') are applicable. If the tenant is in unauthorized occupation on expiry of lease or on determination, necessary procedure as contemplated under Section 83 of the Act has to be followed for due eviction of the tenant. In view of the same, without following the due procedure as contemplated, the respondents are precluded to take possession of the land in question from the petitioner.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

A. **GOPAL REDDY, J**

14..02..2006

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